

December 3, 2013

COUNCIL OF THE CITY OF FORT COLLINS, COLORADO

Council-Manager Form of Government

Regular Meeting - 6:00 p.m.

A regular meeting of the Council of the City of Fort Collins was held on Tuesday, December 3, 2013, at 6:00 p.m. in the Council Chambers of the City of Fort Collins City Hall. Roll call was answered by the following Councilmembers: Campana, Cunniff, Horak, Overbeck, Poppaw, Troxell and Weitkunat.

Staff Members Present: Atteberry, Nelson, Roy.

Agenda Review

City Manager Atteberry recommended postponing Item No. 17, *Resolution 2013-100 Approving a Collective Bargaining Agreement with the Fraternal Order of Police*, to December 17. He stated he will be providing a brief summary of the November election during the Staff Report time, per Councilmember Overbeck's request.

Citizen Participation

Mel Hilgenberg, 172 North College, thanked the Coloradoan for an article regarding senior citizen transportation and expressed appreciation for the \$25 annual senior bus pass. He supported expansion of bus hours and suggested moving the Fort Collins Rescue Mission into the old nightclub across from New Belgium Brewery.

Jack Daniels, 172 North College, expressed appreciation for Fort Collins and its leadership.

Mike Pruznick, Fort Collins resident, thanked Council for supporting the City Works 101 class, the Citizens Police Academy, the Net Zero Cities Conference, the Business Innovation Fair, and the Social Sustainability Gap Analysis.

Margaret Griffin, 3245 Honeysuckle Court, opposed the Boxelder Stormwater Authority's eminent domain takeover of the unencumbered fee interest in her property. She argued the Authority does not have the legal right to use eminent domain in this situation.

John Kirsch, Fort Collins resident, noted electronic-assisted bicycles are legal as non-motorized vehicles and encouraged the City to adopt them as such.

Eric Sutherland, 3520 Golden Currant, stated threats to disconnect water and electric service were made to residents who refused the installation of Smart Meters.

Citizen Participation Follow-up

City Manager Atteberry disagreed with Mr. Sutherland's comments and requested a staff response.

Dennis Sumner, Advanced Meter Fort Collins Project Manager, stated staff is offering three options regarding the Smart Meter Project. Options 1 and 2 have the Smart Meter option and Option 3 has a standard, digital display meter that does not have the capability to record water or energy use and does not have radio broadcast capability. There is an \$11 per month charge for the manual meter reading associated with Option 3. Sumner stated there were 47 households which refused the Smart Meter installation, each of which received a certified letter which indicated the City's recognition of their desire to go with Option 3. He stated those standard meters were installed beginning in mid-November; there were 14 customers for which the installations were not able to be completed. Those customers were sent certified letters advising them their service will be terminated if the installation was not able to be completed. Currently, there are nine households with pending installation or service termination. Mr. Sumner also noted 66,611 electric meters have been installed and 31,603 water meters have been installed.

City Manager Atteberry requested input regarding the reasons individuals have for protesting the meter installation. Mr. Sumner replied general concerns are regarding the incremental data collected, privacy issues, and radio frequency broadcast.

Mayor Weitkunat noted the meters are City property and asked why they cannot be replaced given that fact. Mr. Sumner replied staff members have left properties when asked.

Councilmember Cunniff suggested disassembling one of the standard meters in order to show its contents.

Mayor Pro Tem Horak asked if Neighborhood Services staff members have been involved with any of the remaining households or if they have been asked if they would agree to independent information regarding the meter itself. Brian Janonis, Utilities General Manager, replied staff is open to an independent task force meeting or meeting with Neighborhood Services.

Councilmember Troxell supported revisiting the e-bike discussion.

Councilmember Campana supported staff regarding the meter installation.

Mayor Pro Tem Horak noted more information will be provided regarding the Boxelder Stormwater Authority.

CONSENT CALENDAR

1. Consideration and Approval of the Minutes of the November 5, 2013 Regular Council Meeting.
2. Second Reading of Ordinance No. 163, 2013, Appropriating Unanticipated Grant Revenue in the General Fund for the Environmental Services Radon Program and Authorizing the Transfer of Matching Funds Previously Appropriated in the Environmental Services Operating Budget.

This Ordinance, unanimously adopted on First Reading on November 19, 2013, appropriate \$4,973 awarded to the City by the Colorado Department of Public Health and Environment, to transfer a matching amount of \$4,973 from the 2013 General Fund, and to combine these in the Environmental Services Radon Program account. The Radon Program carries out radon risk-reduction activities as identified in the current City Budget.

3. Second Reading of Ordinance No. 164, 2013, Appropriating Prior Year Reserves in the General Fund for Waste Reduction and Diversion Projects Approved by the Waste Innovation Program.

This Ordinance, unanimously adopted on First Reading on November 19, 2013, appropriates \$53,100 accumulated during 2013 in the Waste Innovation Program Fund (WIP) account into the City's General Fund account for an approved Streets Department project to buy a new piece of equipment called a Power Screen, for use at the Hoffman Mill Road Crushing Facility.

4. Second Reading of Ordinance No. 165, 2013, Appropriating Unanticipated Grant Revenue in the Capital Projects Fund for the Drake Road and Shields Street Intersection Improvement Project.

This Ordinance, unanimously adopted on First Reading on November 19, 2013, appropriates unanticipated federal grant revenue for intersection improvements partially funded through Building on Basics funding. At First Reading, Council requested supplemental information pertaining to this project. That information is provided as an attachment to this packet.

5. First Reading of Ordinance No. 167, 2013, Appropriating Prior Year Reserves in the Conservation Trust Fund and Authorizing the Transfer of Appropriations to the Capital Projects Fund.

The purpose of this item is to appropriate \$13,808 of prior year reserves in the Conservation Trust Fund for transfer to the Capital Projects Fund, and to transfer \$1,084,261 of existing appropriations from Conservation Trust Fund projects to projects in the Capital Projects Fund.

6. First Reading of Ordinance No. 168, 2013, Appropriating Unanticipated Revenue in the Emergency Recovery Fund to be Used for the "Larimer County Flood of 2013" Costs and Repair Projects.

The purpose of this item is to appropriate \$1,118,000 for the costs associated with the flood that occurred in September 2013. Of that total, \$1,012,000 is for the incremental costs that are eligible under the Federal Emergency Management Agency's (FEMA) Public Assistance Program. In general, FEMA reimburses about 75% of eligible costs. The State of Colorado has agreed to cover half of the portion not paid by FEMA. The other \$106,000 is for City assistance provided to Estes Park. They will reimburse the City 100% and seek reimbursement from FEMA for up to 75%.

7. First Reading of Ordinance No. 169, 2013, Appropriating Prior Year Reserves in the General Employees Retirement Plan.

The purpose of this item is to approve additional spending in the General Employee Retirement Trust Fund. At the time of retirement, qualified persons have the option to elect monthly payments or one-time cash out. Using historical data, the actuary estimates that 30% of future retirees will elect a single-sum payout. The 2013 budget made the same assumption. Retirees electing cash outs this year have exceeded the assumed election rate.

8. First Reading of Ordinance No. 170, 2013, Amending Chapter 25, Article III of the City Code Concerning Sales and Use Tax.

The purpose of this item is to amend the City Code to limit the option for vendors to file consolidated sales and use tax returns for multiple locations.

9. First Reading of Ordinance No. 171, 2013, Amending Article III of Chapter 26 of the City Code to Eliminate Water Rights Banking by the City's Water Utility.

The purpose of this item is to discontinue the practice of water right banking. In order to meet the water needs of new development or redevelopment within the Water Utility service area, developers are assessed a Raw Water Requirement (RWR). Current City Code allows water rights to be submitted to the Water Utility even when no water service permit is needed in exchange for credit that can be used for later satisfaction of the RWR. Although this banking practice was helpful in the past, it is less helpful now and makes managing these water rights difficult. The proposed City Code changes would discontinue the practice of banking water right credits, but continue to allow the practice of conveying acceptable water rights for developments at the time a RWR is assessed.

10. First Reading of Ordinance No. 172, 2013, Amending Various Provisions of the Fort Collins Traffic Code.

The purpose of this Ordinance is to ensure that the Fort Collins Traffic Code (the "Traffic Code") is consistent with state traffic laws, and to implement amendments identified by staff that would make the Traffic Code more consistent and provide more effective and efficient local enforcement.

11. First Reading of Ordinance No. 173, 2013, Vacating a Portion of College Avenue Right-of-Way Between Foothills Parkway and Monroe Drive.

The proposed ordinance vacates a portion of College Avenue right-of-way, correcting an error in Ordinance No. 098, 1973 ("1973 Ordinance"). The proposed ordinance vacates the remaining right-of-way that was intended to be vacated, and reserves an easement for utilities as originally intended in the 1973 Ordinance, whose legal description did not properly describe the intended area of right-of-way vacation for College Avenue.

12. First Reading of Ordinance No. 174, 2013, Vacating Foothills Parkway Right-of-Way Between College Avenue and Mathews Street, and Vacating a Portion of Mathews Street.

The proposed Ordinance vacates the right-of-way for the remaining public street portion of Foothills Parkway from College Avenue to Mathews Street, along with a portion of the west side of Mathews Street intersecting Foothills Parkway. This would make Foothills Parkway a private drive from College Avenue to Stanford Road (as the portion of Foothills Parkway from Mathews Street to Stanford Road was previously vacated in 1988). Easements for access, emergency access, drainage, utilities, and transit will be retained in order to allow these uses within the vacated right-of-way in conjunction with the redevelopment of the Foothills Mall.

13. First Reading of Ordinance No. 175, 2013, Authorizing the Conveyance a Permanent Irrigation Ditch Easement and Right-of-Way to the Larimer County Canal No. 2 Irrigating Company Within the South College Avenue Frontage Road.

The purpose of this item is to accommodate the realignment of the Larimer No. 2 Ditch, which allows the ditch to be relocated off the Mall property. The planned re-alignment will locate the ditch beneath the frontage road, across College Avenue opposite the mall and will require the conveyance of a permanent drainage easement to the Larimer Canal No. 2 Irrigating Company (the "Ditch Company").

14. Resolution 2013-097 Finding Substantial Compliance and Initiating Annexation Proceedings for the Kechter Farm Annexation.

The purpose of this item is to annex the first phase of Kechter Farm. A written petition has been submitted requesting annexation of 88.21 Acres within the Kechter Farm General Development Plan, located north of Fossil Creek Reservoir, approximately 1,320 feet south of Kechter Road, 2,640 feet east of South Timberline Road, just west of Ziegler Road, and southwest of Kinard Middle School. The property is located within the Fossil Creek Reservoir Area Plan. In accordance with the Intergovernmental Agreement with Larimer County, adopted in 1999, properties within the Fossil Creek Reservoir Area receive their land use approvals in the County and are annexed into the City prior to construction.

Kechter Farm has a General Development Plan (comparable to the City's Overall Development Plan) that encompasses 286 acres. The first phase of the project is 88.21 acres and is currently being approved in the County. Within the first phase, there is a 2.85 acre commercial area, 1.45 acre recreation center with a neighborhood park, and the remaining land is dedicated to residential development. The requested zoning for this annexation is LMN - Low Density Mixed Use Neighborhood and UE - Urban Estate.

15. Resolution 2013-098 Adopting the Annual Revenue Allocation Formula to Define the City of Fort Collins' Contribution to the Poudre Fire Authority Budget for the Year 2014 for Operations and Maintenance.

This Resolution establishes a Revenue Allocation Formula between the City of Fort Collins and the Poudre Fire Authority to contribute funding for operating and maintenance of the Poudre Fire Authority.

16. Resolution 2013-099 Authorizing the Mayor to Execute an Intergovernmental Agreement with Larimer County in Support of the Larimer County Conservation Corp Energy and Water Program.

The purpose of this item is to seek City Council approval of an intergovernmental agreement (“IGA”) between the City of Fort Collins and Larimer County for funding of the Larimer County Conservation Corp (“LCCC”) Energy and Water Program (the “Program”). The agreement would allow for four one-year renewals for a total of five years, subject to budget appropriations.

17. Resolution 2013-100 Approving a Collective Bargaining Agreement with the Fraternal Order of Police.

The purpose of this item is to approve a bargaining agreement between the City and the Northern Colorado Lodge #3, Colorado Fraternal Order of Police (FOP). The City and the FOP, using an Interest Based Bargaining (IBB) approach, engaged in negotiations regarding the terms and conditions of a possible bargaining agreement for 2014 and 2015. City staff and the FOP have tentatively reached an agreement. On November 11, 2013, bargaining unit members voted to ratify the proposed agreement.

18. Resolution 2013-101 Authorizing a Revocable Permit for Poudre Fire Authority to Use City Property for Training Activities.

The purpose of this Resolution is to authorize the City Manager to execute a Revocable Permit to allow Poudre Fire Authority to use a vacant residential building on City Property for fire and life safety training activities for a period of one year.

The City acquired a property at the southwest corner of Prospect Road and Timberline Road in 2006 as part of a road improvement project. Poudre Fire Authority (“PFA”) was granted a revocable permit to use a residential structure on the property to perform fire and life safety training activities. The permit will expire in January 2014. PFA has expressed interest in extending the permit and City staff has agreed to allow the training activities to continue for an additional year.

19. Resolution 2013-102 Supporting the Retrofit of Existing DOT-111 Rail Tank Cars That Transport Packing Groups I and II Hazmat Before the Pipelines and Hazardous Materials Safety Administration.

The purpose of this item is to allow City Council to provide input to a federal Department of Transportation rulemaking. Passage of the underlying resolution would indicate the Fort Collins City Council support of the National Transportation Safety Board recommendation requiring railroads retrofit tank cars to address known safety defects and to provide local governments more knowledge of the hazardous materials being transported through their communities.

20. Routine Easement

The purpose of this item is to accept a routine utility easement at 303 W. Prospect Road from the Griffin Foundation for the installation of an electric system to serve an adjacent new development.

*****END CONSENT*****

Ordinances on Second Reading were read by title by City Clerk Nelson.

2. Second Reading of Ordinance No. 163, 2013, Appropriating Unanticipated Grant Revenue in the General Fund for the Environmental Services Radon Program and Authorizing the Transfer of Matching Funds Previously Appropriated in the Environmental Services Operating Budget.
3. Second Reading of Ordinance No. 164, 2013, Appropriating Prior Year Reserves in the General Fund for Waste Reduction and Diversion Projects Approved by the Waste Innovation Program.
4. Second Reading of Ordinance No. 165, 2013, Appropriating Unanticipated Grant Revenue in the Capital Projects Fund for the Drake Road and Shields Street Intersection Improvement Project.
21. Second Reading of Ordinance No. 166, 2013, Amending Chapter 10 of the City Code to Revise Fees for Floodplain Use Permits, Reviews and Variances.

Ordinances on First Reading were read by title by City Clerk Nelson.

5. First Reading of Ordinance No. 167, 2013, Appropriating Prior Year Reserves in the Conservation Trust Fund and Authorizing the Transfer of Appropriations to the Capital Projects Fund.
6. First Reading of Ordinance No. 168, 2013, Appropriating Unanticipated Revenue in the Emergency Recovery Fund to be Used for the "Larimer County Flood of 2013" Costs and Repair Projects.
7. First Reading of Ordinance No. 169, 2013, Appropriating Prior Year Reserves in the General Employees Retirement Plan.
8. First Reading of Ordinance No. 170, 2013, Amending Chapter 25, Article III of the City Code Concerning Sales and Use Tax.
9. First Reading of Ordinance No. 171, 2013, Amending Article III of Chapter 26 of the City Code to Eliminate Water Rights Banking by the City's Water Utility.
10. First Reading of Ordinance No. 172, 2013, Amending Various Provisions of the Fort Collins Traffic Code.
11. First Reading of Ordinance No. 173, 2013, Vacating a Portion of College Avenue Right-of-Way Between Foothills Parkway and Monroe Drive.

12. First Reading of Ordinance No. 174, 2013, Vacating Foothills Parkway Right-of-Way Between College Avenue and Mathews Street, and Vacating a Portion of Mathews Street.
13. First Reading of Ordinance No. 175, 2013, Authorizing the Conveyance a Permanent Irrigation Ditch Easement and Right-of-Way to the Larimer County Canal No. 2 Irrigating Company Within the South College Avenue Frontage Road.
22. First Reading of Ordinance No. 176, 2013, Amending Section 2-606 of the City Code and Setting the Salary of the Municipal Judge. (
23. First Reading of Ordinance No. 177, 2013, Amending Section 2-581 of the City Code and Setting the Salary of the City Attorney. (staff: Janet Miller, Tamara Vega; 2 minute staff presentation; 15 minute discussion)
24. First Reading of Ordinance No. 178, 2013, Amending Section 2-596 of the City Code and Setting the Salary of the City Manager.

Mike Pruznick, withdrew Item Nos. 11, 12, and 13, *First Reading of Ordinance No. 173, 2013, Vacating a Portion of College Avenue Right-of-Way Between Foothills Parkway and Monroe Drive, First Reading of Ordinance No. 174, 2013, Vacating Foothills Parkway Right-of-Way Between College Avenue and Mathews Street, and Vacating a Portion of Mathews Street, and First Reading of Ordinance No. 175, 2013, Authorizing the Conveyance a Permanent Irrigation Ditch Easement and Right-of-Way to the Larimer County Canal No. 2 Irrigating Company Within the South College Avenue Frontage Road*, from the Consent Calendar.

Eric Sutherland, 3520 Golden Currant, withdrew Item No. 15, *Resolution 2013-098 Adopting the Annual Revenue Allocation Formula to Define the City of Fort Collins' Contribution to the Poudre Fire Authority Budget for the Year 2014 for Operations and Maintenance*.

Mayor Pro Tem Horak made a motion, seconded by Councilmember Campana, to adopt and approve all items not withdrawn from the Consent Calendar. Yeas: Overbeck, Horak, Weitkunat, Cunniff, Troxell, Poppaw and Campana. Nays: none.

THE MOTION CARRIED.

Consent Calendar Follow-up

Councilmember Cunniff discussed and supported Item No. 19, *Resolution 2013-102 Supporting the Retrofit of Existing DOT-111 Rail Tank Cars That Transport Packing Groups I and II Hazmat Before the Pipelines and Hazardous Materials Safety Administration*.

Staff Reports

City Clerk Nelson stated the November 2013 election resulted in over 43,000 citizens voting on the moratorium on hydraulic fracturing; the moratorium passed. She stated countywide, the Amendment 66 relating to public education failed, the marijuana sales tax passed, and Larimer County 1A also passed.

Councilmember Reports

Councilmember Troxell reported on the lighting of the Menorah in Old Town and the North Fort Collins Business Association holiday party. He also mentioned the Salvation Army Red Kettle Kick-Off and reported on discussions regarding the City's boards and commissions.

Councilmember Overbeck reported on a visit to FTC Saturday Mornings which serves meals to homeless citizens on Saturdays.

Mayor Pro Tem Horak noted the Colorado Oil and Gas Association has filed a lawsuit against Fort Collins to overturn the moratorium on oil and gas development. He also reported on the National League of Cities meeting regarding train horn issues.

Mayor Weitkunat reported on the Airport Steering Committee meeting regarding the revitalization of the Fort Collins-Loveland Airport. She noted she was appointed to the Climate Preparedness and Resiliency Taskforce made up of 17 mayors and 25 governors across the country. She shared a Thanksgiving message she received from a school in Brooklyn, New York.

Ordinance No. 166, 2013, Amending Chapter 10 of the City Code to Revise Fees for Floodplain Use Permits, Reviews and Variances, Adopted on Second Reading

The following is the staff memorandum for this item.

“EXECUTIVE SUMMARY

This Ordinance, unanimously adopted on First Reading on November 19, 2013 (Campana recused) adopts new and updated floodplain review fees in Chapter 10 (Flood Prevention and Protection) of the City Code. Chapter 10 outlines floodplain regulations that promote the public health, safety and general welfare and minimize public and private losses due to flood conditions in flood hazard areas. A new fee structure will be established to better assign costs to floodplain review applicants.

BACKGROUND / DISCUSSION

During the City Council discussion on First Reading of the Ordinance, it was asked if this fee increase consideration followed the past City Council Resolution 2006-113 providing a process for implementing city fee increases. In 2011 the City Council revisited this issue and clarified the process by Resolution 2011-013 and finally replaced both Resolutions with Resolution 2011-082 (see Attachment 3), which remains in effect today.

These Resolutions specifically address the fee setting provisions of Chapter 7.5 of the City Code and Section 2.2.3(D) of the Land Use Code. The intents stated is to confirm the authority of the City Manager to structure and set development review and building permit fees administratively, and that such fees “should recover all related direct costs”

The Stormwater and Floodplain Fees under consideration are set in Chapter 10 of the City Code and therefore any adjustment must be made by City Council adoption of an Ordinance as has been presented here. Regardless, staff approached the review of these fees in the same manner and intent as the above referenced Council Resolutions by applying a thorough review, rigorous accounting, review of similar fees by other Front Range Cities, and a methodology to recover all related direct costs."

Councilmember Campana withdrew from the discussion of this item due to a conflict of interest.

Eric Sutherland, 3520 Golden Currant, stated this item deals with stormwater capital expansion fees and questioned whether or not the City is paying the fees associated with the Boxelder Stormwater Authority. He also argued residents should be allowed to keep old meters, per the City Code.

Mayor Pro Tem Horak made a motion, seconded by Councilmember Cunniff, to adopt Ordinance No. 166, 2013, on Second Reading. Yeas: Horak, Weitkumat, Cunniff, Troxell, Poppaw and Overbeck. Nays: none.

THE MOTION CARRIED.

**Ordinance No. 176, 2013,
Amending Section 2-606 of the City Code and Setting the Salary
of the Municipal Judge, Adopted on First Reading**

The following is the staff memorandum for this item.

“EXECUTIVE SUMMARY

City Council met in Executive Session on November 12, 2013 to conduct the performance review of Municipal Judge Kathleen Lane. This Ordinance establishes the 2014 salary of the Municipal Judge.

BACKGROUND / DISCUSSION

City Council is committed to compensating employees in a manner which is fair, competitive and understandable. The goal as an employer is to attract and retain quality employees and to recognize and reward quality performance.

In order to accomplish this goal the City Council and the Municipal Judge meet twice a year to discuss performance and set goals for the coming year.

In 2013, the total compensation paid to the Municipal Judge included the following:

<i>2013 SALARY AND BENEFITS</i>	<i>ANNUAL</i>	<i>NON-MONETARY</i>
<i>Salary</i>	<i>\$ 99,253</i>	<i>Vacation (30 days per year)</i>
<i>Medical Insurance</i>	<i>7,800</i>	<i>Holidays (11 days per year)</i>

<i>Dental Insurance</i>	492
<i>Life Insurance</i>	174
<i>Long Term Disability</i>	459
<i>ICMA (457)</i>	2,978
<i>ICMA (401)</i>	9,925
<i>Total Monetary Compensation</i>	<i>\$ 121,081</i>

Resolution 2012-091, which establishes the process for evaluating the performance of the City Manager, City Attorney, and Municipal Judge, states that any change in compensation for the City Manager, City Attorney and Municipal Judge will be adopted by the Council by ordinance in sufficient time for the change in compensation to take effect as of the first full pay period of the ensuing year. The Ordinance will amend the City Code to reflect Judge Lane's 2014 salary."

Amy Sharkey, Benefits Manager, discussed the City's pay philosophy regarding market-based and competitive compensation packages. She discussed the market data used to calculate the Municipal Judge's compensation package.

Mayor Pro Tem Horak made a motion, seconded by Councilmember Campana, to change the total compensation package for Judge Lane to a 6% increase.

Mayor Pro Tem Horak commended Judge Lane on her efficiency and effectiveness.

Councilmember Troxell stated he would support the proposed increase and commended Judge Lane on her work.

Councilmember Campana stated he would support the proposed increase and noted the per capita operating budget is the lowest in Fort Collins among compared markets.

Mayor Weitkunat stated she would support the proposed increase and thanked Judge Lane for her service.

Sharkey stated a 6% difference in total compensation would result in a 5.95% salary increase which would increase the base salary from \$99,253 to \$105,159. The total compensation would increase to \$128,332.

Mayor Pro Tem Horak and Councilmember Campana withdrew the initial motion.

Mayor Pro Tem Horak made a motion, seconded by Councilmember Campana, to adopt Ordinance No. 176, 2013, on First Reading, with a salary of \$105,159 and total compensation of \$128,332. Yeas: Weitkunat, Cunniff, Troxell, Poppaw, Campana, Overbeck and Horak. Nays: none.

THE MOTION CARRIED.

**Ordinance No. 177, 2013,
Amending Section 2-581 of the City Code and Setting the
Salary of the City Attorney, Adopted on First Reading**

The following is the staff memorandum for this item.

“EXECUTIVE SUMMARY

City Council met in Executive Session on November 12, 2013 to conduct the performance review of City Attorney Steve Roy. This Ordinance establishes the 2014 salary of the City Attorney.

BACKGROUND / DISCUSSION

City Council is committed to compensating employees in a manner which is fair, competitive and understandable. The goal as an employer is to attract and retain quality employees and to recognize and reward quality performance.

In order to accomplish this goal the City Council and the City Attorney meet twice a year to discuss performance and set goals for the coming year.

In 2013, the total compensation paid to the City Attorney included the following:

2013 SALARY AND BENEFITS	ANNUAL	NON-MONETARY
<i>Salary</i>	<i>\$ 170,662</i>	<i>Vacation (32.5 days per Holidays (11 days per year)</i>
<i>Medical Insurance</i>	<i>7,800</i>	
<i>Dental Insurance</i>	<i>492</i>	
<i>Life Insurance</i>	<i>298</i>	
<i>Long Term Disability</i>	<i>789</i>	
<i>ICMA (457)</i>	<i>5,120</i>	
<i>ICMA (401)</i>	<i>17,066</i>	
<i>Total Monetary Compensation</i>	<i>\$ 202,226</i>	

Resolution 2012-091, which establishes the process for evaluating the performance of the City Manager, City Attorney, and Municipal Judge, states that any change in compensation for the City Manager, City Attorney and Municipal Judge will be adopted by the Council by ordinance in sufficient time for the change in compensation to take effect as of the first full pay period of the ensuing year. The Ordinance will amend the City Code to reflect City Attorney Roy's 2014 salary.”

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Amy Sharkey, Benefits Manager, discussed the City's pay philosophy and discussed the market data used to calculate the City Attorney's compensation package.

Mayor Weitkunat reviewed the duties of the City Attorney and commended his work.

Mayor Pro Tem Horak made a motion, seconded by Councilmember Campana, to adopt Ordinance No. 177, 2013, on First Reading, with a total compensation increase of 5%.

Mayor Pro Tem Horak commended City Attorney Roy on his work for the City.

Councilmember Troxell commended City Attorney Roy on his work for the City.

Councilmembers Cunniff and Campana commended City Attorney Roy.

Mayor Weitkunat thanked City Attorney Roy for his service and commitment to the community.

Sharkey stated the salary increase would be 4.94% to \$179,093 and the total compensation would be increased to \$212,347.

The vote on the motion using the aforementioned figures was as follows: Yeas: Cunniff, Troxell, Poppaw, Campana, Overbeck, Horak and Weitkunat. Nays: none.

THE MOTION CARRIED.

**Ordinance No. 178, 2013,
Amending Section 2-596 of the City Code and Setting the
Salary of the City Manager, Adopted on First Reading**

The following is the staff memorandum for this item.

“EXECUTIVE SUMMARY

City Council met in executive session on November 12, 2013 to conduct the performance review of City Manager Darin Atteberry. This Ordinance establishes the 2014 salary of the City Manager.

BACKGROUND / DISCUSSION

City Council is committed to compensating employees in a manner which is fair, competitive and understandable. The goal as an employer is to attract and retain quality employees and to recognize and reward quality performance.

In order to accomplish this goal the City Council and the City Manager meet twice a year to discuss performance and set goals for the coming year.

In 2013, the total compensation paid to the City Manager included the following:

2013 SALARY AND BENEFITS	ANNUAL	NON-MONETARY
<i>Salary</i>	\$ 207,063	<i>Vacation (30 days per year)</i> <i>Holidays (11 days per year)</i>
<i>Medical Insurance</i>	7,800	
<i>Dental Insurance</i>	492	
<i>Life Insurance</i>	362	
<i>Long Term Disability</i>	957	
<i>ICMA (457)</i>	6,212	
<i>ICMA (401)</i>	20,706	
<i>Car Allowance</i>	9,000	
Total Monetary Compensation	\$ 252,592	

Resolution 2012-091, which establishes the process for evaluating the performance of the City Manager, City Attorney, and Municipal Judge states that any change in compensation for the City Manager, City Attorney and Municipal Judge will be adopted by the Council by ordinance in sufficient time for the change in compensation to take effect as of the first full pay period of the ensuing year. The Ordinance will amend the City Code to reflect City Manager Darin Atteberry's 2014 salary."

Mayor Weitkunat discussed the City Manager's duties and responsibilities.

Amy Sharkey, Benefits Manager, discussed the City's pay philosophy and skills-based and performance pay increases. Additionally, she discussed the market data used to calculate the City Manager's compensation package.

Mel Hilgenberg, 172 North College, opposed comparison to other markets stating Fort Collins should be number one. He argued the City Manager should not make more than twice that of a police officer. He commended the visibility and engagement of City Manager Atteberry.

Mayor Pro Tem Horak made a motion, seconded by Councilmember Poppaw, to adopt Ordinance No. 178, 2013, on First Reading, with a total compensation increase of 14%.

Mayor Pro Tem Horak noted City Manager Atteberry's compensation has been substantially lower than that of comparable markets. He commended City Manager Atteberry's willingness to communicate with Council and on his hiring decisions and work for the City.

Councilmember Cunniff stated he could not support the motion and argued the national comparison is not the correct comparison to make. He commended City Manager Atteberry's work, but stated he could not support such a significant increase.

Councilmember Troxell commended City Manager Atteberry's work and stated his leadership is shown throughout the organization and community. He stated the proposed compensation increase is justly deserved.

Councilmember Overbeck commended City Manager Atteberry's work; however, he stated he could not support such a compensation increase.

Councilmember Campana agreed 14% is a large increase but noted the compensation package has fallen behind over the last several years and the metrics and policies support the increase. Additionally, he stated City Manager Atteberry does an above-average job with his duties.

Mayor Pro Tem Horak stated the comparison to national markets for the City Manager is appropriate.

Councilmember Poppaw stated she would support the motion and stated the City is fortunate to have three exceptional employees working on behalf of the community.

Councilmember Campana noted this increase may still leave City Manager Atteberry's compensation behind comparable markets, given those markets will likely increase compensation as well.

Councilmember Overbeck thanked the Municipal Judge and City Attorney for their work and supported a compensation increase for the City Manager of no more than 8%.

Councilmember Cunniff agreed Council is a metrics-driven entity; however, he argued the metrics which were selected were not the appropriate markets.

Councilmember Overbeck noted City Manager Atteberry also receives 41 days of time off.

Councilmember Campana stated comparative markets could be selected to support any data sample and discussed the competitive process of selecting City Managers.

Mayor Weitkunat stated the City has a goal of retaining and rewarding quality employees and commended the work of the City Manager.

The vote on the motion was as follows: Yeas: Troxell, Poppaw, Campana, Weitkunat and Horak.
Nays: Overbeck and Cunniff.

THE MOTION CARRIED.

**Ordinance No. 173, 2013,
Vacating a Portion of College Avenue Right-of-Way Between
Foothills Parkway and Monroe Drive, Adopted on First Reading**

The following is the staff memorandum for this item.

“EXECUTIVE SUMMARY

The proposed ordinance vacates a portion of College Avenue right-of-way, correcting an error in Ordinance No. 098, 1973 ("1973 Ordinance"). The proposed ordinance vacates the remaining right-of-way that was intended to be vacated, and reserves an easement for utilities as originally

intended in the 1973 Ordinance, whose legal description did not properly describe the intended area of right-of-way vacation for College Avenue.

BACKGROUND / DISCUSSION

In review of the Foothills Mall Redevelopment plans and plat, the City Surveyor discovered an error through research of previous recorded documents. In conjunction with development of the Foothills Mall, the 1973 Ordinance (approved by City Council on November 29, 1973) intended to vacate a portion of College Avenue right-of-way that was no longer needed for roadway purposes due to the elimination of a College Avenue frontage road. The legal description in the language of the 1973 Ordinance did not correctly describe the area to be vacated, and instead described a different area of vacation, offset thirty feet to the west from the intended vacation and did not extend an additional sixty feet to the south of the intended vacation. The approval of this proposed ordinance would vacate right-of-way to correspond with the intent of the 1973 Ordinance.

Vacations of public right-of-way are governed by City Code Section 23-115, which provides for an application and review process prior to submission to the City Council for formal consideration. The process includes review by potentially affected utility agencies, City staff, emergency service providers, and affected property owners in the vicinity of the right-of-way proposed to be vacated. This review process was followed in conjunction with review of the Foothills Mall Redevelopment Project Development Plan, and based on comments received; the Planning Development and Transportation Director recommended that the vacation be approved. With the proposed vacation, an easement for utilities would be retained, which preserves the right to utilize the vacated portion for this purpose, and is consistent with the action by City Council in the 1973 Ordinance. Approval of the plat for Foothills Mall Redevelopment subsequent to approval of this ordinance would vacate the utility easement, but then dedicates easement along College Avenue for access, transit, drainage, and utilities, in conjunction with the improvements outlined in the Foothills Mall Redevelopment plans.

FINANCIAL / ECONOMIC IMPACTS

If the portion of College Avenue right-of-way is vacated, the City will no longer be able to utilize the right-of-way for roadway purposes, but roadway purposes were no longer intended when the frontage road was eliminated. Ongoing maintenance of the area being vacated is the responsibility of the abutting property owner; however, with redevelopment of Foothills Mall, a metro district has been established and maintenance of the vacated area would be assigned to the metro district.

PUBLIC OUTREACH

A memorandum requesting input was sent to the abutting property owners, utility providers and potentially impacted departments."

Mike Pruznick, Fort Collins resident, stated his comments apply equally to this item as well as item nos. 12 and 13. He opposed the public funding of the mall project and requested that the Mayor recuse herself from the discussion of these items due to her conflict of interest. He

suggested these types of items should not be placed on the Consent Calendar. Mr. Pruznick went on to question what would occur should these items be adopted and the mall redevelopment does not occur.

Mayor Weitkunat argued she does not have a conflict with this items given it is easement vacation corrections from 1973. City Attorney Roy replied these items are related to the mall redevelopment in the sense that they will accommodate the relocation of certain rights-of-way that will facilitate redevelopment. If this is the case, City Attorney Roy recommended the Mayor recuse herself from the discussion of these items, in an abundance of caution. .

Marc Virata, Engineering Department, stated an error was discovered from a 1973 vacation which has been discovered as a result of the mall redevelopment project. He stated the item does not have much bearing on the redevelopment plans.

Councilmember Cunniff stated this error could have been discovered at any time. Virata replied the City's survey department does a survey regarding what a development application represents as the property boundary; therefore, this error was discovered as a result of the submittal of the mall application. John Von Neida, City Surveyor, went on to detail the error in question.

Councilmember Cunniff asked if the mall redevelopment is contingent upon this item. Staff replied in the negative.

Mayor Pro Tem Horak made a motion, seconded by Councilmember Cunniff, to adopt Ordinance No. 173, 2013, on First Reading.

Mayor Pro Tem Horak agreed this item does not have a direct impact on the mall redevelopment but agreed Item Nos. 12 and 13 are more directly related and should not have been on the Consent Calendar.

The vote on the motion was as follows: Yeas: Poppaw, Campana, Overbeck, Horak, Weitkunat, Cunniff and Troxell. Nays: none.

THE MOTION CARRIED.

**Ordinance No. 174, 2013,
Vacating Foothills Parkway Right-of-Way Between College Avenue and Mathews Street,
and Vacating a Portion of Mathews Street, Postponed to December 17, 2013**

The following is the staff memorandum for this item.

“EXECUTIVE SUMMARY

The proposed Ordinance vacates the right-of-way for the remaining public street portion of Foothills Parkway from College Avenue to Mathews Street, along with a portion of the west side of Mathews Street intersecting Foothills Parkway. This would make Foothills Parkway a private drive from College Avenue to Stanford Road (as the portion of Foothills Parkway from Mathews Street to Stanford Road was previously vacated in 1988). Easements for access, emergency

access, drainage, utilities, and transit will be retained in order to allow these uses within the vacated right-of-way in conjunction with the redevelopment of the Foothills Mall.

BACKGROUND / DISCUSSION

Foothills Parkway was originally built and dedicated as a public street from College Avenue to Stanford Road with the development of the Foothills Fashion Mall (now known as Foothills Mall). In 1988, an expansion to Foothills Mall for Foley's (now Macy's) resulted in the vacation of Foothills Parkway right-of-way from Mathews Street to Stanford Road as approved in Ordinance No. 116, 1987 adopted by City Council on May 17, 1988.

The owner of Foothills Mall has requested that the remaining public portion of Foothills Parkway from College Avenue to Mathews Street be vacated. Additionally, a portion of right-of-way along the west side of Mathews Street would be vacated due to the owner realigning a portion of Mathews Street intersecting Foothills Parkway, resulting in excess right-of-way. The owner received approval by the Planning and Zoning Board on February 7, 2013 of the Foothills Mall Redevelopment Project Development Plan and a condition of approval of the plan was made requiring this portion of Foothills Parkway be vacated.

Vacations of public right-of-way are governed by City Code Section 23-115, which provides for an application and review process prior to submission to the City Council for formal consideration. The process includes review by potentially affected utility agencies, City staff, emergency service providers, and affected property owners in the vicinity of the right-of-way proposed to be vacated. This review process was followed in conjunction with review of the Foothills Mall Redevelopment Project Development Plan, and based on comments received; the Planning Development and Transportation Director recommended that the vacation be approved. With the proposed vacation, easements for access, emergency access, drainage, utilities, and transit would be retained, preserving rights to utilize the vacated portion for these purposes.

FINANCIAL / ECONOMIC IMPACTS

If Foothills Parkway and a portion of Mathews Street are vacated, the City will no longer be responsible for the maintenance, and as such, the roadways can be eliminated from the City's street maintenance program. Ongoing maintenance of the area being vacated is the responsibility of the abutting property owner; however, with redevelopment of Foothills Mall, a metro district has been established, and maintenance of the vacated area would be assigned to the metro district.

PUBLIC OUTREACH

A memorandum requesting input was sent to the utility providers, potentially impacted departments, and adjacent property owners

Mayor Weitkunat withdrew from the discussion of this item due to a conflict of interest.

Mayor Pro Tem Horak suggested Item Nos. 12 and 13 be postponed to December 17, 2013.

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Councilmember Cunniff made a motion, seconded by Councilmember Campana, to postpone consideration of Ordinance No. 174, 2013 and No. 175, 2013, to December 17, 2013.

Mike Pruznick, Fort Collins resident, supported the postponement and discussed his reasoning for requesting the Mayor's recusal.

Eric Sutherland, 3520 Golden Currant, urged Council to not commit to a date certain and stated both of these items are dependent upon the completion of whatever occurs with the mall financial support package.

Councilmember Cunniff suggested the placement of these items on the December 17th agenda following the financial package consideration.

Mayor Pro Tem Horak noted these items are not tied to a specific financial package but rather to the general redevelopment of the area.

The vote on the motion was as follows: Yeas: Campana, Overbeck, Horak, Cunniff, Troxell and Poppaw. Nays: none.

THE MOTION CARRIED.

**Ordinance No. 175, 2013,
Authorizing the Conveyance a Permanent Irrigation Ditch Easement and Right-of-Way to
the Larimer County Canal No. 2 Irrigating Company Within the South College Avenue
Frontage Road, Postponed to December 17, 2013**

The following is the staff memorandum for this item.

“EXECUTIVE SUMMARY

The purpose of this item is to accommodate the realignment of the Larimer No. 2 Ditch, which allows the ditch to be relocated off the Mall property. The planned re-alignment will locate the ditch beneath the frontage road, across College Avenue opposite the mall and will require the conveyance of a permanent drainage easement to the Larimer Canal No. 2 Irrigating Company (the “Ditch Company”).

BACKGROUND / DISCUSSION

The Larimer No. 2 Ditch is currently located on the Foothills Mall site and is to be relocated to the west of College Avenue in an effort to accommodate the redevelopment of the mall and the adjacent properties. The proposal is to realign the ditch so that it flows underground in a box culvert from its current location immediately north of Red Lobster restaurant, within the College Avenue frontage road and day lighting at its current location immediately south of Monroe Drive. It should be noted that the additional benefit of realigning the ditch allows a pedestrian underpass to be constructed in the location where the ditch currently flows under College Avenue. The pedestrian underpass will allow the redeveloped mall to have excellent pedestrian connections to the Mason Corridor and MAX transit stations.

The frontage road along College Avenue immediately adjacent to Markley Motors and Red Lobster restaurant was dedicated as right-of-way in the 1970's as part of the subdivision that created those commercial sites. Right-of-way that is dedicated to the City of Fort Collins is owned and maintained by the City; however, the adjacent property owners have a property right in the right of way in that if the City ever vacated the right of way, under State law, ownership of the land would revert back to those adjacent property owners. In order for the City to dedicate the required easement to the Larimer No. 2 Ditch Company for the relocated ditch, the City must acquire that underlying property right from Markley Motors and Red Lobster. The City has acquired the necessary property interests from Markley Motors and is in the process of acquiring the necessary property interests from Red Lobster. This Ordinance authorizes the City to convey a permanent easement to the Ditch Company to operate and maintain ditch facilities under the College Avenue frontage road, once the necessary remainder property interests have been acquired. It should be noted that the City is not seeking compensation from the ditch company for the conveyance of the easement because the relocation is occurring as a result of the redevelopment of the mall."

(Secretary's note: This item was postponed to December 17, 2013, per a motion during discussion of the previous item.)

Resolution 2013-098
Adopting the Annual Revenue Allocation Formula to Define the City of
Fort Collins' Contribution to the Poudre Fire Authority Budget for
the Year 2014 for Operations and Maintenance, Adopted

The following is the staff memorandum for this item.

“EXECUTIVE SUMMARY

This Resolution establishes a Revenue Allocation Formula between the City of Fort Collins and the Poudre Fire Authority to contribute funding for operating and maintenance of the Poudre Fire Authority.

BACKGROUND / DISCUSSION

In December 1981, the Council entered into an intergovernmental agreement (“IGA”) with the Poudre Valley Fire Protection District, creating the Poudre Fire Authority (“PFA”). The IGA was amended in 1987.

According to the IGA, the City will contribute funding for maintenance and operating costs of PFA, based on a Revenue Allocation Formula (“RAF”). The RAF is to be set annually, but paid monthly, based upon a percentage of sales and use tax revenues, excluding dedicated sales and use tax revenues that must be spent on specific projects, and a portion of the operating mill levy of the City's property tax.

The City calculates the RAF at a sum equal to .185 of one cent of the 2.25 cent sales and use tax applicable to all taxable sales and uses, plus 67.09% of the property tax available for operations and maintenance. Based on these calculations, the City's 2014 contribution to the PFA,

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including Keep Fort Collins Great (KFCG) funds, for operations and maintenance is \$18,423,017.

In addition to the operation and maintenance contribution, the 2014 Budget authorizes one mill of the City's property tax mill levy to fund PFA's capital needs. This mill levy was approved by the Council in 1991 to provide additional funding necessary for anticipated capital improvements, including land acquisition, construction of additional stations, and acquisition of major firefighting apparatus. The revenue from this dedicated mill is to be managed according to the property tax levy and revenue limitation provisions of TABOR. It is anticipated that the one mill tax levy will generate an estimated \$1,771,802.

This Resolution does include the City's contribution of \$164,393 for the Southwest Annexation which was included in the 2014 annual appropriation approved by City Council on November 5, 2013.

The City will also make a debt payment on behalf of PFA in 2014 in the amount of \$234,354. This is related to the capital expansion fees to be used for Station 4. This debt payment is not included in the RAF calculation nor in the total indicated as the City's Contribution to PFA for 2014, but is included in the 2014 annual appropriation approved by City Council on November 5, 2013.

Together, the City's total 2014 contributions to PFA for operations and maintenance, capital needs, the Southwest Annexation and debt retirement is \$20,359,212.

FINANCIAL / ECONOMIC IMPACTS

Adoption of the Resolution will establish a Revenue Allocation Formula, thereby defining the City's contribution to the Poudre Fire Authority in 2014. Additionally, one mill levy of the City's Property tax mill levy will go to fund PFA's capital needs. The total City contributions to PFA for operations, maintenance and capital needs in 2014 will be \$20,359,212."

Eric Sutherland, 3520 Golden Currant, discussed Poudre Fire Authority funding and tax increment financing districts.

Mike Pruznick, Fort Collins resident, expressed process concerns and stated there is no data regarding why the current formula is failing and why the proposed formula will be better.

Mayor Pro Tem Horak made a motion, seconded by Councilmember Poppaw, to adopt Resolution 2013-098.

Mayor Pro Tem Horak discussed the history behind the necessity for this item and stated there are capital expansion fees for Poudre Fire Authority.

The vote on the motion was as follows: Yeas: Horak, Weitkumat, Troxell, Poppaw, Overbeck, Campana and Cunniff. Nays: none.

THE MOTION CARRIED.

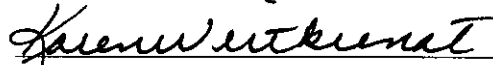
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Other Business

Councilmember Troxell requested Council support to revisit the e-bike discussion regarding their use on the City's rights-of-way and trails. He received such support.


Adjournment

The meeting adjourned at 8:15 p.m.



Mayor

ATTEST:



City Clerk

